

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, . Docket No. 13-53846  
MICHIGAN, .  
 . Detroit, Michigan  
 . June 25, 2014  
Debtor. . 10:00 a.m.  
 . . . . .

HEARING RE. (#4792) OBJECTION TO CLAIM NUMBER OF CLAIMANT  
FIRST OMNIBUS OBJECTION TO CLAIMS (DUPLICATE CLAIMS)  
FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN;  
(#4794) OBJECTION TO CLAIM NUMBER OF CLAIMANT SECOND  
OMNIBUS OBJECTION TO CLAIMS (AMENDED AND SUPERSEDED)  
FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN;  
(#4834) OBJECTION TO CLAIM NUMBER OF CLAIMANT EDITH WOODBERRY  
CLAIM NO. 2846. FILED BY DEBTOR IN POSSESSION CITY OF  
DETROIT, MICHIGAN; (#4835) OBJECTION TO CLAIM NUMBER OF  
CLAIMANT CLAIM NO. 3278 BY PHEBE WOODBERRY. FILED BY  
DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4836)  
OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3883 BY  
LA JEFF WOODBERRY. FILED BY DEBTOR IN POSSESSION  
CITY OF DETROIT, MICHIGAN; (#4837) OBJECTION TO CLAIM  
NUMBER OF CLAIMANT CLAIM NO. 2889 BY LAVAN WOODBERRY.  
FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN;  
(#4838) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO.  
2880 BY HAPPY WOODBERRY. FILED BY DEBTOR IN POSSESSION  
CITY OF DETROIT, MICHIGAN; (#4839) OBJECTION TO CLAIM  
NUMBER OF CLAIMANT CLAIM NO. 2905 BY CRANSTON WOODBERRY.  
FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN;  
(#4840) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO.  
3006 BY GARFIELD WOODBERRY. FILED BY DEBTOR IN POSSESSION  
CITY OF DETROIT, MICHIGAN; (#4841) OBJECTION TO CLAIM  
NUMBER OF CLAIMANT CLAIM NO. 2888 BY CAVEL WOODBERRY.  
FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN;  
(#4842) OBJECTION TO CLAIM NUMBER OF CLAIMANT DR. BRIAN  
GREENE, AS NEXT FRIEND OF INDIA BOND, A MINOR/  
OBJECTION OF THE CITY OF DETROIT, PURSUANT TO  
SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE,  
BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, TO PROOF OF  
CLAIM NUMBER 1399 FILED BY DR. BRIAN GREENE, AS NEXT  
FRIEND OF INDIA BOND, A MINOR, FILED BY DEBTOR IN  
POSSESSION, CITY OF DETROIT, MICHIGAN; (#4843) OBJECTION  
TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3271 BY ADAM  
WOODBERRY. FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT,  
MICHIGAN; (#4844) OBJECTION TO CLAIM NUMBER OF CLAIMANT  
TARIS JACKSON, AS NEXT FRIEND OF ASHLY JACKSON, A MINOR/  
OBJECTION OF THE CITY OF DETROIT, PURSUANT TO SECTIONS  
105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE

3007 AND LOCAL RULE 3007-1, TO PROOF OF CLAIM NUMBER 1401 FILED BY TARIS JACKSON, AS NEXT FRIEND OF ASHLY JACKSON, A MINOR, FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; (#4854) OBJECTION TO CLAIM NUMBER OF CLAIMANT ERNEST FLAGG, AS NEXT FRIEND OF JONATHON BOND, A MINOR/OBJECTION OF THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, TO PROOF OF CLAIM NUMBER 1404 FILED BY ERNEST FLAGG, AS NEXT FRIEND OF JONATHON BOND, A MINOR, FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; (#4855) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 3236 BY LUCINDA DARRAH. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4857) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NOS. 1330 AND 1853 FILED BY RICKIE ALLEN HOLT ON BEHALF OF THE ABORIGINAL INDIGENOUS PEOPLE. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4859) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2902 ON BEHALF OF PENNY MABIN. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4863) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 2021 BY EDWARD L. GILDYARD. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4872) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NO. 458 BY ALBERT OTTO O'ROURKE. FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4873) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NOS. 1329 AND 1859 BY RICKIE HOLT FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4881) OBJECTION TO CLAIM NUMBER OF CLAIMANT/FOURTH OMNIBUS OBJECTION TO THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, SEEKING THE DISALLOWANCE OF CERTAIN DUPLICATE CLAIMS FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4886) OBJECTION TO CLAIM NUMBER OF CLAIMANT HYDE PARK CO-OPERATIVE/OBJECTION OF THE CITY OF DETROIT, PURSUANT TO SECTIONS 105 AND 502(b) OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3007 AND LOCAL RULE 3007-1, TO PROOF OF CLAIM NUMBER 2651 FILED BY HYDE PARK CO-OPERATIVE FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4954) OBJECTION TO CLAIM NUMBER OF CLAIMANT CLAIM NUMBER 3683 FILED BY MACOMB. (CORRECTED OBJECTION RE. DOCKET 4880) FILED BY DEBTOR IN POSSESSION CITY OF DETROIT, MICHIGAN; (#4955) OBJECTION TO CLAIM NUMBER OF CLAIMANT CORRECTED OBJECTION TO CLAIM NUMBERS 1302 AND 3500 FILED BY INLAND WATERS POLLUTION CONTROL, INC. (RE. DOCKET 4875) FILED BY DEBTOR IN POSSESSION, CITY OF DETROIT, MICHIGAN; STATUS HEARING RE. (#5155) MOTION TO ALLOW CLAIM(S)/NOTICE OF AND MOTION FOR TEMPORARY ALLOWANCE OF CLAIM OF THE MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT PURSUANT TO RULE 3018(a) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE FOR PURPOSES OF ACCEPTING OR REJECTING THE DEBTOR'S FOURTH AMENDED PLAN OF ADJUSTMENT FILED BY CREDITOR

COUNTY OF MACOMB, MICHIGAN; (STATUS HEARING RE. (#5354)  
 MOTION FOR CLASS CERTIFICATION OF PROOF OF CLAIMS  
 #2638, 2651, 2654, 2659, 2676, 2683, 2689 AND 2692 FILED BY  
 CREDITOR HYDE PARK CO-OPERATIVE, ET AL.  
 BEFORE THE HONORABLE STEVEN W. RHODES  
 UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor:	Jones Day By: JEFFREY G. ELLMAN 1420 Peachtree Street, N.E., Suite 800 Atlanta, GA 30309-3053 (404) 581-8309  Foley & Lardner, LLP By: JOHN SIMON TAMAR N. DOLCOURT 500 Woodward Avenue, Suite 2700 Detroit, MI 48226 (313) 234-7161  Miller Canfield Paddock & Stone PLC By: TIMOTHY A. FUSCO 150 West Jefferson, Suite 2500 Detroit, MI 48226 (313) 496-8435
For the Official Committee of Retirees:	Dentons US, LLP By: CLAUDE D. MONTGOMERY 1221 Avenue of the Americas, 25th Floor New York, NY 10020-1089 (212) 632-8390
For County of Macomb, Michigan:	Dechert LLP By: ALLAN BRILLIANT 1095 Avenue of the Americas New York, NY 10036 (212) 698-3600
For Family of Tamara Greene:	Norman Yatooma & Associates, PC By: HOWARD LEDERMAN 1900 S. Telegraph Road Bloomfield Hills, MI 48302 (248) 481-2000

## APPEARANCES (continued):

For Hyde Park                      Thornbladh Legal Group PLLC  
Co-Operative:                      By: KURT THORNBLADH  
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   Dearborn, MI 48126  
   (313) 943-2678

   Becker & Wasvery, PLLC  
   By: CARL BECKER  
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1 THE CLERK: Case Number 13-53846, City of Detroit,  
2 Michigan.

3 MR. ELLMAN: Your Honor, Jeffrey Ellman from Jones  
4 Day on behalf of the city. Are we going to take appearances  
5 now for everyone?

6 THE COURT: Sure.

7 MR. SIMON: Good morning, your Honor. John Simon of  
8 Foley & Lardner for the city.

9 MS. DOLCOURT: Good morning, your Honor. Tamar  
10 Dolcourt of Foley & Lardner on behalf of the city.

11 MR. MONTGOMERY: Good morning, your Honor. Claude  
12 Montgomery, Dentons US, LLP, for the Official Retiree  
13 Committee.

14 MR. BRILLIANT: Good morning, your Honor. Allan  
15 Brilliant and Raechel Badalamenti from Kirk, Huth, Lange &  
16 Badalamenti on behalf of the Macomb Interceptor Drain  
17 Drainage District.

18 THE COURT: Thank you, sir.

19 MR. FUSCO: Good morning, your Honor. Timothy  
20 Fusco, Miller Canfield, on behalf of the city.

21 MR. LEDERMAN: Good morning, your Honor. Howard  
22 Lederman on behalf of three claimants, Ernest Flagg, Dr.  
23 Brian Greene, and Taris Jackson.

24 THE COURT: Thank you, sir. Mr. Ellman.

25 MR. ELLMAN: Yes, your Honor. Good morning and

1 thanks for hearing us today. We have on the docket this  
2 morning a number of claim objections filed by the city. Your  
3 Honor has entered orders on a number of them as of yesterday  
4 for the matters where there was no response, and there's  
5 still a handful of matters to address. I'm happy to deal  
6 with them in a particular order if your Honor has something  
7 you would like to do. Otherwise we have folks from --

8 THE COURT: No. I will yield the agenda to you,  
9 sir.

10 MR. ELLMAN: Okay. Great. Thank you, your Honor.  
11 Well, the first thing I guess I will address is two different  
12 objections that go together. It's an objection to Claim  
13 Number 2651 by Hyde Park Co-Operative, and that's Docket  
14 4886. And then there was a related objection, which was the  
15 fourth omnibus objection to certain claims, duplicate claims.  
16 That's Docket 4881, and that dealt with another seven claims  
17 filed by related entities, related in the sense that all the  
18 claims are based on an underlying lawsuit for which a class  
19 is alleged, a putative class relating to alleged overcharging  
20 for building inspection fees. I'm sure the Court has looked  
21 at the papers. We've talked to counsel just before the  
22 hearing, and I think we have a consensus on the best way to  
23 address this. We have effectively eight claims, and I don't  
24 think there's any real dispute that they are duplicative in  
25 the sense that they're based on the same lawsuit. They're

1 all filed for \$5 million. They all allege an individual  
2 claim, but really they also allege a class claim. And we  
3 believe that seven of those claims should be disallowed. I  
4 do not think that's being opposed today. We also have the  
5 final claim, which is the Hyde Park claim, which we objected  
6 to as not having been properly authorized to be filed in this  
7 Court as a class claim in advance of its filing under the  
8 rules, and since we filed the objection, the Hyde Park  
9 parties have filed, in fact, a motion for class  
10 certification, which is not pending -- not being heard today.  
11 It is on the docket. Responses, I think, are due next week.  
12 So what we had proposed is to put off that claim objection  
13 until the Court can determine that motion because it seems  
14 inefficient just to have the Court disallow the claim. If  
15 you were inclined to grant certification, they'd have to  
16 refile it. It doesn't seem very efficient. We also had said  
17 in our papers, which we think is appropriate, if class  
18 certification is denied, that the individual claimants who  
19 have their duplicate claims disallowed as an improper  
20 duplicate class claim should have the right to file  
21 individual claims. They did file a timely claim even though  
22 it was -- they included their individual claim if they have  
23 one with their class claim, so they're clearly duplicative of  
24 the class claim, but if a class is denied certification, it  
25 seems appropriate to give them some period of time -- we

1 suggested 30 days -- to let them refile an individual claim,  
2 but that is a future matter that can be addressed in  
3 conjunction with the certification motion. My understanding  
4 is counsel for the Hyde Park entities has agreed with that,  
5 and we would ask the Court to --

6 THE COURT: Okay.

7 MR. ELLMAN: -- grant that relief.

8 MR. FUSCO: Your Honor, just for the record, Miller  
9 Canfield is defending the class certification motion. Our  
10 response is due next week, and we do intend to oppose the  
11 motion for class certification.

12 THE COURT: All right. Thank you, sir.

13 MR. THORNBLADH: Your Honor, Kurt Thornbladh on  
14 behalf of Hyde Park. Good to see you again, Judge Rhodes.  
15 With me is Carl Becker, who's also co-counsel with me on  
16 these matters. And this correctly states our agreement of  
17 this morning.

18 THE COURT: All right. Let me ask you to actually  
19 prepare a paper which memorializes your agreement and file  
20 that, please. I'd like to actually go ahead and set a date  
21 for the hearing on the class certification motion. Is that  
22 okay?

23 MR. THORNBLADH: That would be fine, your Honor,  
24 thank you, if that's fine with my colleagues.

25 THE COURT: Chris, what would you propose? Give us



1 one second, please. Subject to finding a courtroom we can  
2 use, how about July 21st at 10 a.m.?

3 MR. THORNBLADH: That's acceptable, your Honor.

4 THE COURT: Mr. Fusco.

5 MR. FUSCO: I believe that's fine, your Honor.

6 THE COURT: All right. I doubt that got on the  
7 microphone, but we'll note for the record that Mr. Fusco  
8 asserted that he thought that that was fine. Okay. So if  
9 there are problems with that date, let us know, and we'll  
10 adjust it, but in the meantime, let's count on that date.

11 MR. FUSCO: And just for the record, we're going to  
12 maintain the same response time, so next --

13 THE COURT: Yes.

14 MR. FUSCO: -- week we'll file our papers.

15 THE COURT: Yes.

16 MR. FUSCO: All right. Thank you, your Honor.

17 MR. ELLMAN: Thank you, your Honor. The next three  
18 items that I would address, again, are related items,  
19 objections to claims by Dr. Brian Greene, Taris Jackson, and  
20 Ernest Flagg, and those are Docket Numbers 4842, 4844, and  
21 4854. These are all matters that they all seek about \$155  
22 million as damage claim alleging denial of and conspiracy to  
23 deny access to courts in connection with homicide of Tamara  
24 Greene. These matters had been adjudicated. There was an  
25 order of dismissal issued by Judge Rosen. There was also an

1 order from the Sixth Circuit affirming that dismissal and  
2 then a motion to deny a rehearing at the Sixth Circuit on  
3 June 18th, 2013, so we filed this objection, your Honor, in  
4 light of the fact that this claim had been adjudicated and  
5 denied, and, therefore, the bankruptcy claim should be  
6 disallowed. It was pointed out to us in the response that,  
7 in fact, as a result of the bankruptcy filing tolling the  
8 statutory deadlines, that a cert petition could still be  
9 filed and that the plaintiffs intended to do so, so you might  
10 recall, your Honor, under our ADR procedures we have the  
11 right -- the city has the right to file a stay modification  
12 notice for these types of claims and lift the stay, which we  
13 have -- in response to the papers filed, we did do that last  
14 week, so the stay has been lifted to allow, if they're so  
15 inclined, the plaintiffs to file their cert petition, and we  
16 suggested that this matter be put off until October 1st at  
17 our next claims hearing to have a status on where that cert  
18 petition stands, has it been filed, has it been dealt with in  
19 any way. Counsel here for the plaintiffs indicates that  
20 that's acceptable to them, and we believe that would be  
21 appropriate.

22 THE COURT: Sir.

23 MR. LEDERMAN: Yes. Your Honor, the facts are as  
24 counsel indicated them. I will say that our clients have  
25 given us the go-ahead to petition for cert. And when we

1 heard of the bankruptcy on or about July 18th of last year,  
2 we were working on the petition for cert, so right now our  
3 intention is to go ahead and petition for cert.

4 THE COURT: Okay. The Court will adjourn this  
5 matter until October 1st.

6 MR. LEDERMAN: October 1st? Thank you, your Honor.

7 THE COURT: You're welcome.

8 MR. ELLMAN: And, your Honor, the last matter that I  
9 am going to be handling today is the third omnibus objection  
10 to employee claims duplicative of certain union claims, and  
11 this is a matter -- I think it covered about 50 claims, and  
12 your Honor has entered an order on all but one of the claims  
13 where there was no response. We did have a response from  
14 Antonio Ratliff. His response is very brief. It basically  
15 says that he filed one claim that was a public claim or one  
16 of the claims at issue is a public claim, maybe the union  
17 claim, and one was a private or personal claim. I'm not sure  
18 there's a legal distinction there. Our view is that the  
19 types of -- excuse me -- the types of matters raised in Mr.  
20 Ratliff's claim are all covered by the very broad claim of  
21 AFSCME. Mr. Ratliff is an AFSCME member, based on the city's  
22 books and records, and the AFSCME claim, which is Claim 2958,  
23 is a very broad claim covering all of its members and  
24 including virtually every type of breach of contract or  
25 violation of law type of claim. We have separately objected

1 to that claim. We've also adjourned that objection. And, in  
2 addition, we've separately worked out with AFSCME a voting  
3 amount for their claim, which your Honor signed also this  
4 week, so that claim will vote, and they will have a vote on  
5 behalf of their members, but we believe that Mr. Ratliff's  
6 claim on its face is duplicative of the claim filed on his  
7 behalf by the union and should be disallowed.

8 THE COURT: Thank you. Is Mr. Ratliff here or  
9 anyone representing him? All right. The Court concludes  
10 that the record justifies sustaining the city's objection to  
11 this claim on the grounds that it is duplicative, so you may  
12 submit an order.

13 MR. ELLMAN: We will do that, your Honor. Thank  
14 you. And the lawyers from Foley will handle the remaining  
15 matters.

16 THE COURT: All right.

17 MR. SIMON: Good morning, your Honor. John Simon of  
18 Foley & Lardner for the city. We have four objections to  
19 claims, your Honor, that were not resolved. We filed a  
20 variety of objections that we either resolved or which were  
21 resolved by the Court's orders entered yesterday or this  
22 morning. Those four remaining objections -- and I guess  
23 there's actually more than four claims, but there are four  
24 buckets of objections. There's Claim 458 as to Mr. Albert  
25 O'Rourke, Claim 3236 filed by Ms. Lucinda Darrah, and then

1 there are a variety of claim numbers, ten claims filed by  
2 what we call the Woodberry claimants on account of a  
3 condemnation proceeding or an eminent domain proceeding. And  
4 then there is the Macomb Interceptor claim and the related  
5 3018 motion that was filed by Macomb Interceptor. If I could  
6 address them in that order, O'Rourke --

7 THE COURT: Sure.

8 MR. SIMON: -- Darrah -- thank you. Your Honor,  
9 with respect to Mr. O'Rourke's claim, we objected to the  
10 claim. The claim lists unspecified governmental abuses in  
11 quotation marks on the initial claim. We filed the  
12 objection. It appears -- and I know you've read the  
13 documents. It appears that the claim is based on the city  
14 allegedly destroying some kind of nuclear secrets. There's  
15 really no valid basis for the claim that we can identify from  
16 the documents. There are rambling handwritten response to  
17 our claim objection that was filed in support, and it calls  
18 in a District Court litigation from California with rambling  
19 text that talks about everything from, you know, the JFK  
20 documents to some kind of nuclear documents and basically  
21 says the city is somehow responsible for the cost of one  
22 trillion dollars, which would be the cost of constructing  
23 nuclear weapons based on the nuclear secrets. It's a  
24 frivolous claim, your Honor. It doesn't meet the standards  
25 of 3001(f). We do not know of any basis for this claim at

1 the city, and so we would request that it is expunged.

2 I should point out we did receive a handwritten  
3 letter from Mr. O'Rourke yesterday in which he let us know  
4 that he cannot attend the hearing personally, but he is --  
5 hopefully we are amenable to simply let your Honor make a  
6 ruling. We are happy to have you make a ruling. There's no  
7 valid basis for the claim, and it should be disallowed.

8 THE COURT: Is Mr. O'Rourke here or anyone on his  
9 behalf? No response. The Court concludes that the record  
10 does justify sustaining the city's objection to the claim,  
11 and you may submit an order.

12 MR. SIMON: Thank you. Your Honor, moving on to  
13 Claim Number 3236 filed by Ms. Lucinda Darrah, this claim --  
14 in this claim the claimant alleged she was owed \$150 million  
15 to purchase garbage trucks so that the citizens of Detroit  
16 could manage their own garbage services. There were no  
17 attachments to the proof of claim. There's no basis  
18 presented or documents provided or any kind of evidence that  
19 connects why the city would be liable to pay Ms. Darrah for  
20 the \$150 million to purchase garbage trucks. In response to  
21 our claim objection, Ms. Darrah filed another document in  
22 response that specified and requested an additional \$450  
23 million for unspecified damages alleged to arise from her  
24 vicinity to an incinerator. There's no basis for either of  
25 the claims, the initial claim. There's no basis provided.

1 There was no response to our objection on that point. And  
2 her further reply basically submits a new claim, which is  
3 also baseless, and so we would ask the Court to deny those  
4 claims and disallow them.

5 THE COURT: Thank you. Is Ms. Darrah here or anyone  
6 representing her? We do have a response. Will you yield the  
7 lectern, please?

8 MS. DARRAH: Your Honor, I first filed for control  
9 of the garbage because I felt like our health wasn't being  
10 protected, mine and everybody else's, and so I thought if we  
11 controlled the garbage and the recycling and reuse, then  
12 plastics wouldn't go to the landfill -- would go to the  
13 landfill that weren't recycled and not be put in the  
14 incinerator. And I have a book that I'd be glad to give the  
15 Court. It's Waste Incineration and Public Health published  
16 by the National Research Council in 2000. This is what --  
17 these are all scientists that are really -- these are the  
18 best scientists we have in the country, and they put this  
19 book out in 2000 talking about the polyvinyl chloride breaks  
20 down when you incinerate it. When it cools off, it creates  
21 dioxins and furans, which are the most poisonous carcinogens  
22 I think that we have in the waste stream, even more so than  
23 lead and mercury. So they've been burning this. In fact, in  
24 2010 I think the city signed another contract guaranteeing  
25 that they would burn a certain amount of trash, so that

1 contract should be broken under the bankruptcy if you can  
2 have Kevyn Orr go in there and break that contract because  
3 that's the way they forced us to keep burning our garbage.  
4 As long as we have that kind of incinerator running, then  
5 they won't recycle in a true meaningful way, and we'll  
6 continue to have dioxins in our air, food, water, land. And  
7 this book, particularly in the last pages, where they've  
8 done -- if they don't run an incinerator just right in the  
9 optimal steady state condition like in start-up and shutdown  
10 and also if they have a bad burn cycle, it just multiplies  
11 exponentially how many dioxins and furans are put into the  
12 air. And this is right by the medical center. It was a  
13 mistake that this was ever put in there. I protested with  
14 Greenpeace. Actually, I was on that site as an electrician  
15 apprentice only for five days. They laid me off after I  
16 started trying to get people to come to the demonstrations  
17 after work, but they -- this has been a -- when I went back  
18 out there the second time as an electrician, I was -- I  
19 turned out by then -- they were putting scrubbers on, but  
20 scrubbers don't take dioxin and furans out. The only way to  
21 take them out, according to Saulius Simoliunas, is to cool  
22 the gases after they come out and try and trap them in a  
23 screen, and then you got to take that screen to a toxic  
24 landfill. The screen will catch the dioxin and furans. When  
25 you recycle, you melt it. This is what he's telling me, and



1 it doesn't go down to -- when it melts, it doesn't release  
2 the chlorines which cause the -- you know, the furans and the  
3 dioxins to form, and they don't break down. I don't think  
4 that you get them out of your body, and, in fact, years ago  
5 Greenpeace had a teach-in, and they said that these would  
6 simulate the sex hormones and that they saw an increase in  
7 breast cancer and in prostate cancer, but what I saw as a  
8 swim leader and lifeguard, these young girls at age ten were  
9 developing big breasts much earlier than I thought was normal  
10 for puberty, so -- and we see a lot of people overweight now,  
11 and maybe that's one of the reasons because it does --  
12 according to this book, it gets in the food, and that's one  
13 of the main ways that people get affected by it.

14 THE COURT: Ma'am, I have two questions.

15 MS. DARRAH: So I thought --

16 THE COURT: I have two questions.

17 MS. DARRAH: -- my health is worth and everybody's  
18 health is worth -- you can't measure it. My mother was the  
19 daughter of a doctor, and she used to teach us that health is  
20 our most important wealth, and there's --

21 THE COURT: Ma'am --

22 MS. DARRAH: If you don't have your health --

23 THE COURT: Ma'am --

24 MS. DARRAH: -- it doesn't matter how much wealth  
25 you got. You won't be happy. Sorry.

1 THE COURT: I have to ask you two questions. Okay?

2 MS. DARRAH: Okay. Yeah.

3 THE COURT: The city argues that you filed this  
4 claim regarding the incinerator too late, after the  
5 deadline --

6 MS. DARRAH: Yeah.

7 THE COURT: -- set by the Court.

8 MS. DARRAH: Well, I think they're related, you  
9 know. In other words, the reason I started out with the  
10 recycling and the garbage control is that if the residents in  
11 the district -- we have seven districts now. If they were in  
12 control of the project, they would try harder to get the  
13 plastic out of the waste stream, but when I saw that that --  
14 that wasn't really something that is illegal to make them  
15 recycle, but what is illegal is for them to violate the Clean  
16 Air Act and jeopardize my health and everybody else's health,  
17 so that's why I amended it to include that because I  
18 didn't -- and, by the way, I spent yesterday running around  
19 to the Hamtramck recycle. I already talked to the director,  
20 Brundidge. I went to the Southfield yard where Advanced  
21 Disposal is, and I didn't make it out to Sterling Heights.  
22 That's where Rizzo takes their trucks every day. That's  
23 their headquarters, but -- and the old recycle place burnt  
24 down. The thing that bothered me is Anna Holden sent me a  
25 flier that she got off their web -- both of the websites,

1 Rizzo and Advanced Disposal, and I meant to bring it. I can  
2 run home and bring it down to you as soon as I finish here  
3 and give it to you. I meant -- it was -- and I didn't see it  
4 this time. I don't know how -- but she got it off the main  
5 websites, both of them. It says no plastic shopping bags in  
6 the recycle bucket that we're supposed to pay for, so to me  
7 that means they really aren't in it to try and get all the  
8 plastic out to protect our health. They're in it just  
9 because they wanted the contract with the City of Detroit,  
10 and this looks good that we've got this recycling that if  
11 they don't educate people, people won't even use it anyway,  
12 you know, because they have to pay \$25 for it, and they don't  
13 know about the bad effects of plastic in the waste stream.

14 THE COURT: Let me ask you my second question.

15 MS. DARRAH: Okay. Yeah.

16 THE COURT: You claim \$450 million for compensation  
17 for the harm you have suffered.

18 MS. DARRAH: Right.

19 THE COURT: What evidence do you have of that?

20 MS. DARRAH: Well, I was trying to put a value on my  
21 life, and they did spend about that much when they first  
22 built the incinerator, and then they -- I don't know how much  
23 more they spent when they were forced to put scrubbers on it.  
24 They didn't even put those on till they were forced to, but  
25 those scrubbers won't take dioxins out.

1 THE COURT: All right.

2 MS. DARRAH: So I would be happy with whatever you  
3 could grant, but the main thing is to protect our health, and  
4 the city is not doing it. They're the ones -- and I tried to  
5 get answers yesterday. It's interesting. You don't get  
6 consistent answers going from one place to the other.

7 THE COURT: All right. Ma'am, in the circumstances,  
8 I am going to sustain the city's objection to your claim.  
9 Your amended claim is filed too late, and it does not have  
10 sufficient evidence to support it, and neither does the  
11 original claim, so in the circumstances I'm going to disallow  
12 your claim.

13 MS. DARRAH: Well, what would it take to support it?

14 THE COURT: Well, I can't give you that advice.  
15 That's something you'd need to ask a lawyer. All I can tell  
16 you is that what you have submitted --

17 MS. DARRAH: Well, yeah. The original claim --

18 THE COURT: Let me just finish my sentence.

19 MS. DARRAH: I have here what they spent.

20 THE COURT: What I can tell you is that what you  
21 have submitted is not sufficient.

22 MS. DARRAH: They spent about that much with these  
23 two contracts for the Rizzo, and that's approximately what  
24 they spent for one year.

25 THE COURT: All right.

1 MS. DARRAH: No. That's a five-year contract. I'm  
2 sorry. So that's approximately what they spent, but what I  
3 wanted was that we have some way that the citizens can become  
4 involved in their own survival, and right now we don't have  
5 that.

6 THE COURT: Well, I appreciate that, but that's all  
7 we can do here today. That's all we can do here today.

8 MS. DARRAH: That's not enough.

9 THE COURT: That's all we can do here today.

10 MS. DARRAH: All right. Okay.

11 THE COURT: Please take your seat now, ma'am.

12 MS. DARRAH: It goes out in the suburbs, too, if you  
13 live out there. It goes everywhere, Great Lakes, everything.

14 THE COURT: Mr. Simon.

15 MR. SIMON: Yes, your Honor. Moving on to the next  
16 set of objections, the Woodberry claimants' objections is  
17 Claim Numbers 3278, 3271, 3006, 2905, 2902, 2889, 2888, 2883,  
18 2880, and 2846. Those are ten claims filed for a total of  
19 \$12 million by members of the Woodberry family. They filed  
20 these claims initially, your Honor, just listing eminent  
21 domain as a reason on one page of the proof of claim without  
22 any backup saying the city took -- quote, "The city took real  
23 property without paying just compensation." We objected to  
24 the claims because we couldn't tell at all anything about  
25 them. We couldn't tell what real property this was or what

1 the situation was.

2 And the Woodberrys did file responses. The  
3 responses identified the property -- the subject property as  
4 2457 Beaubien. We did some digging on the city's end, your  
5 Honor, and determined that property was the subject of a  
6 condemnation proceeding that started back in 2005. The  
7 claimants in this case were parties to that litigation over  
8 condemnation, and in April 2009 after years of that  
9 litigation, the Wayne County Circuit Court entered an order  
10 confirming that title to the property had vested in the city,  
11 and they ordered payment of \$240,000, which the city paid,  
12 and so the claimants had totally omitted that from their  
13 claim, but we did determine what -- you know, some background  
14 on it. There is no basis for any further claims because the  
15 April 2009 order also says that it is with prejudice to any  
16 other claims against the city with respect to the property.  
17 It says, quote, "This judgment shall be with prejudice to any  
18 further assertion of claims by defendants against the city  
19 arising directly or indirectly in whole or in part from the  
20 taking of the subject property." I would note that we had an  
21 acknowledgement which we filed as well by Ms. Edith  
22 Woodberry, who filed the biggest one of the claims for \$3  
23 million, that acknowledged that she received full payment.  
24 So, your Honor, we would object to this claim. It's baseless  
25 in that there's no basis for any further liability or claim

1 against the city as evidenced by the April order from 2009.

2 THE COURT: Thank you. Are any members of the  
3 Woodberry family here or anyone representing them?

4 MR. CRANSTON WOODBERRY: Good morning, your Honor.  
5 I'm Cranston Woodberry.

6 MS. EDITH WOODBERRY: Good morning. I'm Edith  
7 Woodberry.

8 MR. LA JEFF WOODBERRY: Excuse me, your Honor. Good  
9 morning, your Honor. I'm LA Jeff Woodberry.

10 THE COURT: All right. So the city contends that  
11 you already got paid for this property through the  
12 condemnation proceeding in court.

13 MS. EDITH WOODBERRY: Your Honor, I had received  
14 from the city by express mail I think the day before  
15 yesterday his statements, and I filed a -- prepared a  
16 response, but I don't know how to give it to the city, Judge.

17 THE COURT: I'll have a --

18 MS. EDITH WOODBERRY: Can you give a copy to him or  
19 the -- but the answer is that --

20 THE COURT: If you want me to, I'll have a look at  
21 it, ma'am.

22 MS. EDITH WOODBERRY: I would appreciate it.

23 THE COURT: All right.

24 MS. EDITH WOODBERRY: And there's one for the city's  
25 attorney.

1 THE COURT: Mr. Simon, Ms. Woodberry has one for  
2 you, too.

3 MR. SIMON: Thank you, your Honor.

4 MS. EDITH WOODBERRY: I wasn't seeking oral argument  
5 because I know I'm not a -- I'm in here in pro per. I'm not  
6 any way capable of matching what was said here today, but I  
7 will say that the purpose of me filing that claim was to put  
8 Bankruptcy Court on notice that we had an action in a lower  
9 court, in the state court, and that I wanted -- I don't know  
10 the rules of the Bankruptcy Court, so, therefore, I didn't  
11 want to have this rejected in the state court because the  
12 action should have been brought to you. My suggestion or  
13 hope would be that you would dismiss or accept, receive for  
14 Bankruptcy Court's information the fact that we do have  
15 something and maybe let it go back to state court or dismiss  
16 it for lack of --

17 THE COURT: What is there left for the state court  
18 to do?

19 MS. EDITH WOODBERRY: Well, now, the state court in  
20 its -- the state court has not issued a final order, so,  
21 therefore, we cannot appeal the --

22 MR. CRANSTON WOODBERRY: The judgment.

23 MS. EDITH WOODBERRY: -- the judgment. We can't  
24 appeal the judgment because she has not issued a final -- she  
25 says that that judgment is not a final order. If you look at



1 the bottom of plaintiff's -- the city's --

2 MR. CRANSTON WOODBERRY: Exhibit 1, the April 28th,  
3 2009, judgment.

4 THE COURT: Okay.

5 MS. EDITH WOODBERRY: It's a citizen's --

6 THE COURT: I will look at that. Give me one  
7 second, please.

8 MS. EDITH WOODBERRY: Okay. Well, actually, I'm not  
9 capable of maybe presenting an oral argument against what he  
10 was saying here because I couldn't hear him in the back, and  
11 what he wrote, I responded to that.

12 THE COURT: I do see the language you are referring  
13 to. It says, "Pursuant to Rule 2.602(a)(3), this judgment  
14 does not resolve the last of any claims, and it does not  
15 close the case." That's the language you're talking about?

16 MS. EDITH WOODBERRY: Yes.

17 THE COURT: Okay. Let me ask Mr. Simon about that.  
18 Mr. Simon. Ms. Woodberry, let me just ask you to step a  
19 little bit to the side so Mr. Simon can use the microphone  
20 there. Thank you very much.

21 MR. SIMON: Your Honor, actually the city law  
22 department is right now looking at the status of that case.  
23 I had interpreted that language to be separate from the  
24 condemnation and separate from any payment related to the  
25 eminent domain, which is clearly set forth in the order as

1 being exclusively handled, and the order was entered on a  
2 final basis. It calls for the resolution of all the claims  
3 by the payment of \$240,000, and so I don't think that the --

4 THE COURT: You don't know what's left to be done?

5 MR. SIMON: I don't know of anything left to be  
6 done.

7 MR. CRANSTON WOODBERRY: Well, your Honor, the  
8 problem is --

9 THE COURT: No. One second. So you don't know that  
10 there isn't anything left to be done?

11 MR. SIMON: I cannot say that, your Honor. Based on  
12 that language, I have a -- yes. That's correct.

13 THE COURT: I'm sorry to have interrupted you, sir.  
14 What were you going to say?

15 MR. CRANSTON WOODBERRY: Well, he just answered the  
16 question. We do have an appeal of right.

17 THE COURT: Stand right by that microphone.

18 MR. CRANSTON WOODBERRY: I'm sorry. We do have an  
19 appeal of right, and the other issue is that there were  
20 certain people who had an interest in that property that were  
21 not brought into the action by the City of Detroit, and --

22 THE COURT: And who were those people?

23 MR. CRANSTON WOODBERRY: This is the one person  
24 right there, Jeff Woodberry.

25 MR. LA JEFF WOODBERRY: LA Jeff Woodberry. And I

1 never was brought into the action.

2 THE COURT: Um-hmm.

3 MR. LA JEFF WOODBERRY: (Inaudible) for the  
4 property.

5 THE COURT: Well, Mr. Simon, in the circumstances,  
6 subject to further development of our record here, I think I  
7 have to overrule your objection and abstain from any further  
8 action by this Court in the matter to allow the state court  
9 to do whatever is left to be done in the case. And if there  
10 is ever a final judgment in the sense that all appeals have  
11 been exhausted, then we can sustain the objection assuming  
12 the judgment is in the city's favor.

13 MR. SIMON: Your Honor, there's been no appeal. The  
14 order was entered in 2009.

15 THE COURT: Right, but there's a question about  
16 whether this is a final appealable judgment because it says  
17 the judgment does not resolve the last of any claims, and it  
18 doesn't close the case.

19 MR. SIMON: And, your Honor, would it be possible to  
20 set a briefing schedule on substantive response to the claim  
21 objection, you know, based on --

22 THE COURT: No. I'm going to abstain --

23 MR. SIMON: Okay.

24 THE COURT: -- and allow the state court to make a  
25 final determination on the issues.

1 MR. SIMON: Thank you, your Honor.

2 THE COURT: I can't tell, based on this record,  
3 what's left let alone decide it. All right. I'll prepare an  
4 appropriate order. So you should go back to state court and  
5 try to work with the judge there on resolving whatever is  
6 left to be resolved so you can get on with your appeal.

7 MR. CRANSTON WOODBERRY: Thank you, your Honor.

8 THE COURT: Do you have an attorney in that case?

9 MR. CRANSTON WOODBERRY: I was appearing as the  
10 attorney in that case, your Honor, yes.

11 THE COURT: Okay. All right.

12 MR. SIMON: Your Honor, if I may, just one further  
13 note, is it -- the claim really should be contingent, though,  
14 at best, and unliquidated rather than have a certain dollar  
15 figure.

16 THE COURT: Yes.

17 MR. SIMON: Okay.

18 THE COURT: At this point it's not fixed at all.

19 MR. SIMON: Exactly. I just wanted to be clear  
20 about that. Thank you.

21 THE COURT: All right. I'll make sure the order  
22 says that.

23 MR. SIMON: And, your Honor, the final matters that  
24 we have, your Honor, are in respect of Macomb Interceptor  
25 Drain District. This is probably the thorniest area. We are

1 in something of a spot in that the claim was filed by Macomb  
2 Interceptor on May 5th, and our deadline to object to claims  
3 in connection with the plan and to have the whole plan  
4 process in respect of claims where we couldn't validate where  
5 they're significant and could impact voting, we had to  
6 address that and filed the objections on May 15th, so we have  
7 not had time really to dig into the substance other than to  
8 note that it's a huge claim. We think we have good arguments  
9 against the claim, including res judicata, for the reasons we  
10 stated in our papers. And, you know, we think that there's  
11 somewhat -- there's some gamesmanship going on with the  
12 timing, but we are in a situation where we just can't allow a  
13 claim in the amount of \$26 million to be voted under the plan  
14 without any demonstration of the evidence and certainly not  
15 for distribution purposes either, so both those issues kind  
16 of tie in together, and we object to the claim because we  
17 can't see the validity of it.

18 THE COURT: Well, in the past what I have done in  
19 these situations is to estimate the claim for voting  
20 purposes, and the procedure that I have used in the past and  
21 that I request your input on is to allow counsel to file a  
22 brief in support of whatever estimation amount they assert  
23 supported by whatever affidavits and documents they wish the  
24 Court to consider in support of that estimation amount and  
25 then to give each side a specific and limited amount of time

1 to argue their estimation amount, and then I choose a number.

2 MR. SIMON: That makes sense to me, your Honor, and  
3 I believe we talked about a process along those lines leading  
4 up to the hearing.

5 THE COURT: And the timing in all of that is subject  
6 to your input as well.

7 MR. BRILLIANT: Yes. Thank you, your Honor. Allan  
8 Brilliant from Dechert on behalf of Macomb Interceptor. I'm  
9 joined by Raechel Badalamenti, whose appearance I had put on  
10 the record earlier --

11 THE COURT: Yes.

12 MR. BRILLIANT: -- who is the counsel who's been  
13 handling this in state court, your Honor. We had reached out  
14 after we filed the motion and received the objection from the  
15 city about a process, and we came up with something very  
16 similar to what your Honor had suggested with one caveat,  
17 which is that we had asked for -- that there be some limited  
18 amount of discovery and the opportunity to take a couple of  
19 depositions and get a small amount of documents which we  
20 could attach to the -- you know, to our brief, and then our  
21 expectation is that we would attach our declarations and any  
22 deposition designations that we felt were relevant and that  
23 that could be the basis of the -- you know, of the hearing.  
24 The one thing -- and Mr. Simon alluded to it -- is we really  
25 don't know at this point what their objection is, so we are a

1 little bit concerned that we could end up in a situation  
2 where we prove up our case based on the elements of our  
3 claims and they come up with something as a defense that  
4 we're not aware of, so either we would ask that we have the  
5 opportunity to file a reply brief or, alternatively, that at  
6 some point before we have to file our papers they tell us  
7 what it is --

8 THE COURT: Well, I have to be considerate of the  
9 city's position here given how long it took your client to  
10 file this proof of claim and the time pressure that we are  
11 under to fix an estimation, and this is just an estimation  
12 for voting purposes, not for distribution purposes.

13 MR. BRILLIANT: We understand, your Honor. I think  
14 one thing just to make the record clear on the date, we filed  
15 the complaint before the bankruptcy, so it's not as if they  
16 weren't aware of the fact that we had a complaint, that there  
17 was a state court proceeding that existed before the  
18 bankruptcy filing, and then we filed the proof of claim  
19 within the intergovernmental, you know -- you know -- you  
20 know, bar date, so it's not as if it's a late proof of claim.  
21 And there was a proceeding in front of Judge Cleland, and the  
22 city was represented in all these matters by Miller Canfield,  
23 so it's not as if the city wasn't aware of the claim or the  
24 facts leading up to the claim, but we do recognize that there  
25 are -- you know, that this is time-sensitive material.

1 THE COURT: Well, but you could have filed the proof  
2 of claim on July 19th, too.

3 MR. BRILLIANT: July -- the last possible date,  
4 2014, you're talking -- or you're talking about the first  
5 possible --

6 THE COURT: July 19th, 2013, the day after they  
7 filed the bankruptcy, you could have filed a proof of claim.  
8 All right. Do you have a proposed schedule in mind? Have  
9 you gotten so far as to discuss that?

10 MR. BRILLIANT: We have, your Honor. You know,  
11 the -- you know, the city had requested that it be the week  
12 of the 14th. You know, we would --

13 THE COURT: That what would be the week of the 14th?

14 MR. BRILLIANT: You know, the -- you know, the  
15 hearing.

16 THE COURT: All right.

17 MR. BRILLIANT: And we --

18 THE COURT: So start there and work backwards.

19 MR. BRILLIANT: And we had proposed that it be, you  
20 know, the -- you know, the following week, the week of the  
21 21st, or, you know -- because we just think that your Honor  
22 has a busy calendar. We all -- you know, you have hearings  
23 on Monday, Tuesday, and Wednesday, I believe, in connection  
24 with the case, and, you know, we have other --

25 THE COURT: Thursday.



1           MR. BRILLIANT: We have other issues as well, so we  
2 thought the following week would work better and then work  
3 backwards from there, your Honor, so our sense is if we get a  
4 reply brief or some statement from them as to what the claim  
5 is, that would --

6           THE COURT: Let's start with the hearing date.

7           MR. BRILLIANT: Yes, your Honor.

8           THE COURT: It would be very hard for me to do it  
9 before Monday, July 21st. Is that okay?

10          MR. ELLMAN: If I might, your Honor, Mr. Simon asked  
11 that I address this issue. With your Honor's scheduling of  
12 the plan, various plan deadlines, our voting results are due  
13 on the 21st, and so our strong preference would be to have a  
14 number for this claim for voting purposes before we have to  
15 certify the voting results, so if at all possible our  
16 suggestion would be, obviously subject to your calendar, to  
17 have an answer by the 18th, which is the last business day  
18 before the 21st. Voting is due on the 11th. Ideally it  
19 would be even better to have it before then, but I think they  
20 can vote their claim subject to your Honor's decision. If we  
21 can't have a hearing before the 11th, I do think that  
22 following week it would be, in the city's view, important to  
23 have the final voting results, have a number to put in that  
24 tabulation affidavit on the 21st. Obviously it's a very  
25 tight time frame. I assume the hearing would be relatively

1 truncated and short. A lot of it would be done on the  
2 papers. But obviously that's subject to your calendar, which  
3 I'm sure is crowded. I know there's several things that week  
4 of the 14th already, legal arguments of the individual  
5 claimants, et cetera, so -- but if it worked in that week, it  
6 would be a preference.

7 THE COURT: Well, all right. I do have a brief  
8 opening at two o'clock on the 17th.

9 MR. BRILLIANT: Can I respond on the timing, your  
10 Honor, before your Honor rules on the date?

11 THE COURT: Um-hmm.

12 MR. BRILLIANT: You know, it seems to me that, you  
13 know, it's just -- I'm just going to state the obvious.  
14 There's one of three possibilities that'll occur here.  
15 Either the voting will be such no matter what amount we vote  
16 that the class approves or the voting will be no matter what  
17 we vote that the class rejects or the other possibility is  
18 that it will either be approved or not approved. The class  
19 will either, you know, accept or not accept based on the  
20 amount that we vote. On the -- they have to file their paper  
21 on the 21st. To the extent that it matters, that if it falls  
22 into the third category, they could just put a footnote and  
23 then just say, you know -- you know, Macomb has voted, you  
24 know, the amount that -- you know, purports to have voted the  
25 amount that it thinks it's owed, \$26 million, and based upon,

1 you know, the Court's ruling, it may change the results, and  
2 I don't see, given that the confirmation hearing isn't  
3 starting until, you know, a month later, that it really  
4 matters whether the hearing be on the 21st or the 17th or the  
5 22nd or whatever date works best for your Honor, but my sense  
6 is that a little more time, you know, will make for better  
7 submissions to your Honor, give us the opportunity  
8 potentially to file either a reply brief because I know  
9 they're really telling us -- you know, as they said to you,  
10 they really can't tell us what their issues are.

11 THE COURT: Remind me what class your claim is in or  
12 his claim is in?

13 MR. BRILLIANT: I believe it's other general  
14 unsecured claims. I think it's Class 14. I always get 14  
15 and 15 confused, but it's -- is it 14?

16 MR. ELLMAN: It's Class 14, your Honor.

17 MR. BRILLIANT: 14.

18 MR. ELLMAN: And our concern in part is that this --  
19 we don't know who's going to vote, but even if every party  
20 voted who is entitled to vote in that class, this would at  
21 the level of \$26 million be among, if not the largest claim  
22 in the class, so it's fundamentally important that we know  
23 the answer to that question, I think, if we're having a  
24 real --

25 THE COURT: Well, there's no chance you're going to

1 vote for the plan; right?

2 MR. BRILLIANT: No, your Honor. And for what it's  
3 worth, your Honor, they estimate \$150 million -- in the  
4 disclosure statement they estimate the class would be \$150  
5 million, so it is not as if we have blocking power in this  
6 class --

7 THE COURT: No, but --

8 MR. BRILLIANT: -- even if your Honor allowed it at  
9 26 million.

10 THE COURT: 26 out of 150 is a significant  
11 percentage.

12 MR. ELLMAN: It also depends on who votes, your  
13 Honor.

14 MR. BRILLIANT: Correct, your Honor. I'm not -- we  
15 wouldn't be having, you know, this issue if it was  
16 irrelevant.

17 THE COURT: Whose depositions are you talking about?

18 MR. BRILLIANT: There's two or three. You know, our  
19 issue -- did your Honor, you know, read the papers, and were  
20 they understandable as to what the claim is?

21 THE COURT: Um-hmm.

22 MR. BRILLIANT: Yeah. So, you know, there's two or  
23 three possible depositions we would want. They would relate  
24 to the people who negotiated, you know, the transaction, you  
25 know, what the representations were, what was said, and also

1 what was known about, you know, the -- you know, the --

2 THE COURT: Um-hmm.

3 MR. BRILLIANT: -- you know, the fraud.

4 THE COURT: Do you have specific names?

5 MR. BRILLIANT: We do. We haven't figured out, your  
6 Honor, exactly who we would need, but it's likely to be  
7 someone in the group of Mark Jacobs from Dykema, who's the  
8 lawyer who negotiated this on behalf of the city, you know,  
9 DWSD, and/or, you know, Robert Walker, who was the  
10 corporation counsel who was involved, and then possibly one  
11 of -- there's two, you know, engineers or two business people  
12 who are involved, R.C. Shukla and/or Victor Mercado, but our  
13 sense is, you know, we may do these as -- and also -- you  
14 know, and, again, your Honor, we talked to the other side  
15 about two, maybe three, and --

16 MR. ELLMAN: Darryl Latimer?

17 MR. BRILLIANT: -- and possibly Darryl Latimer,  
18 who's the person who executed the agreement, although we're  
19 not certain at this point that he was involved in the  
20 discussions.

21 THE COURT: Um-hmm.

22 MR. BRILLIANT: You know, we may do this by, you  
23 know, a 30(b)(6) and let them tell us who the people are who  
24 have the most knowledge or we may, you know -- you know --  
25 you know, designate them, but it would be very short,

1 limited, you know -- you know, depositions just geared to,  
2 you know, certain, you know -- you know, key facts that may  
3 or may not be in dispute. A lot of this came out in the  
4 criminal investigation and in connection with the other  
5 litigation, but we're not exactly sure what their position is  
6 with respect to the negotiations and, you know, who knew what  
7 and when.

8 THE COURT: Well, I'm inclined to think there is  
9 merit in the city's position that it is important, to the  
10 extent it's feasible, to pin down claims before it is  
11 required to certify the balloting, so in the circumstances I  
12 am going to set a hearing, tough as it is on us, for July  
13 17th at two o'clock and ask you to submit your briefs and  
14 supporting evidence by Monday, the 14th. And I'll permit the  
15 limited discovery that you have suggested is necessary.

16 MR. BRILLIANT: And, your Honor, can we either -- I  
17 guess it doesn't -- can we file a reply brief on the morning  
18 of the 17th or --

19 THE COURT: Yes. That's fine, and we'll deal as  
20 best we can.

21 MR. BRILLIANT: Thank you, your Honor. Your Honor,  
22 the other thing that was up for today was the objection, you  
23 know, to the ultimate allowance of the claim, which, you  
24 know, is not anything of great import before the confirmation  
25 hearing. I don't know what your Honor was, you know,

1 planning to do with that, but we would be agreeable to  
2 having, you know, that hearing date set for some time at the  
3 convenience of the Court and the city.

4 THE COURT: Well, I think -- yeah. I think that  
5 whole process is subject to the discovery you would have as  
6 if it were a regular civil suit; right?

7 MR. BRILLIANT: Correct, your Honor.

8 THE COURT: So I don't foresee resolving that in any  
9 kind of expedited time frame at all.

10 MR. BRILLIANT: No, no, and we don't either, your  
11 Honor. If I misspoke, that's what I was trying to say to  
12 your Honor.

13 THE COURT: Okay.

14 MR. BRILLIANT: I was just saying from a case  
15 management perspective, I just didn't want it to get lost.  
16 And I don't know what your Honor's --

17 THE COURT: Well, let's have a conversation about  
18 that. I mean normally I would set a discovery deadline, a  
19 final pretrial conference, and a trial. Did you have any  
20 thoughts on that?

21 MR. BRILLIANT: Yes, your Honor. We have talked to  
22 the other side about it. We think that they either should --  
23 you know, there is a complaint that has been filed. They  
24 should either, you know, answer the allegations in the  
25 complaint or file some kind of motion to dismiss so that, you

1 know -- and we're not talking about any time -- you know,  
2 we're not saying in the next 30 days or anything of that sort  
3 unless your Honor, you know, wants to move this along. We're  
4 not insisting on that but that there should be some kind --

5 THE COURT: Doesn't the objection to the claim  
6 identify what their legal or factual disputes are?

7 MR. BRILLIANT: No, your Honor. It just says that  
8 they will vigorously oppose the claim that they -- you know,  
9 and that they think there may be a res judicata argument.

10 THE COURT: Mr. Simon, are you responsible for the  
11 representation of the city in this matter?

12 MR. SIMON: Your Honor, it's still being determined  
13 who's going to represent the city in terms of actual  
14 determination on the issues. I would say -- what I was  
15 thinking is we go through this process in the 3018, and the  
16 parties will have time then to determine what process they  
17 want to use going forward in terms of the actual substance of  
18 the claim. I think it may be valuable to allow the parties  
19 to have those discussions and see if they can come to an  
20 agreement about how the claim would be handled on the  
21 substantive basis for distribution purposes since they are  
22 two separate processes, the 3018 and the --

23 THE COURT: Well, all right. Let's just adjourn  
24 this until October 1st then, but I do want from the city  
25 before then -- and we'll agree upon a date -- a much more



1 specific objection to the claim --

2 MR. SIMON: Understood, your Honor.

3 THE COURT: -- that admits and denies the  
4 allegations of the complaint and asserts affirmative  
5 defenses.

6 MR. SIMON: Understood. Thank you, your Honor.

7 THE COURT: So what's a reasonable date? Two weeks  
8 before that?

9 MR. SIMON: Yes.

10 THE COURT: Chris, help me out.

11 THE CLERK: September 17th.

12 MR. SIMON: Good.

13 THE COURT: And then at this October 1st status  
14 conference, we can discuss the case management issues that  
15 Mr. Brilliant has raised here today.

16 MR. SIMON: Thank you, your Honor.

17 MR. BRILLIANT: Thank you, your Honor.

18 THE COURT: Okay.

19 MR. SIMON: I believe that's all we had, your Honor,  
20 unless you have anything else.

21 THE COURT: No. I'm all set then.

22 MR. SIMON: All right. Thank you very much.

23 MR. BRILLIANT: Thank you, your Honor.

24 THE COURT: Thank you.

25 THE CLERK: All rise.

1 (Proceedings concluded at 10:53 a.m.)

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WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript  
from the sound recording of the proceedings in the above-  
entitled matter.

/s/ Lois Garrett

June 30, 2014

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Lois Garrett